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FROM:

JOHN HERRICK, ESQ.

MESSAGE

Enclosed please find South Delta Water Agency's Request for Reconsideration of the Response Plan Under D-1641. SDWA requests a hearing on this matter.

Number of pages (including a cover page): 19 Date Sent: 4-11-02 Time Sent: 12:20 p.m.

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2 Attorney at Law

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8 Attorney for SOUTH DELTA
9 WATER AGENCY

10 **STATE OF CALIFORNIA**

11 **STATE WATER RESOURCES CONTROL BOARD**

12 In the matter of Approval of Water
13 Level Response Plan Under D-1641 }

REQUEST FOR RECONSIDERATION
(Administrative Code Title 23, §§ 768 & 769)

14 The SOUTH DELTA WATER AGENCY ("SDWA"), a body politic and corporate of the
15 State of California, herein requests the State Water Resources Control Board reconsider its
16 approval (through its Executive Director) of the Response Plan under D-1641 issued on March
17 12, 2002.

18 Petitioner herein is the SOUTH DELTA WATER AGENCY, 4255 Pacific
19 Avenue, Suite 2, Stockton, California, 95207 (209) 956-0150.

20 2. Petitioner requests reconsideration of the approval of a Response Plan for Joint
21 Point of Diversion operations under State Water Resources Control Board Decision 1641 by its
22 Executive Director.

23 3. The Executive Director's approval of said Response Plan is dated March 12,
24 2002.

25 4. Petitioner objects to the approval as not providing sufficient protection to third
26 parties, especially diverters within the South Delta; as being contrary to relevant provisions of D-
27 1641; as improperly shifting the burden of proof to third parties; for acquiescing and continuing
28 USBR and DWR's violation of conditions to the previous Response Plan; and other related
reasons set forth in the enclosed Points and Authorities.

5. Petitioner requests the Board condition the Response Plan as per the terms

1 previously set forth by SDWA (also enclosed) and those contained within the Points and
2 Authorities.

3 6. A copy of this Petition and its enclosures is being concurrently faxed, e-mailed,
4 and sent by regular mail to the appropriate representatives of DWR and USBR.

5 Dated: April 11, 2002

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7 By: 

8 JOHN HERRICK, Attorney for SOUTH DELTA
9 WATER AGENCY
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26 C:\SDWA\Pleadings\D-1641 Request for Reconsideration
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10 **STATE OF CALIFORNIA**

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12 In the matter of Approval of Water
13 Level Response Plan Under D-1641 }

14 **DECLARATION IN SUPPORT OF REQUEST
15 FOR RECONSIDERATION
16 (CAL. ADM. CODE TITLE 23, § 769)**

17 I, John Herrick, declare:

18 1. I am an attorney licensed to practice law in the State of California and am general
19 counsel for the SOUTH DELTA WATER AGENCY.

20 2. On behalf of the SOUTH DELTA WATER AGENCY, I participated in the recent
21 Bay-Delta Water Right Hearings and personally presented all written evidence and testimony to
22 the Board.

23 3. The following "additional" evidence will be presented to the Board prior to and
24 for the hearing on this Request for Reconsideration.

25 A. *The 1980 Report on the Effects of CVP Upon the Southern Delta Water*
26 *Supply*. This study conclusively shows water level effects from the CVP and SWP and was
27 presented as evidence in the Bay-Delta hearings.

28 B. A Declaration by Dr. Gerald Orlob indicating that portions of the South
Delta are below sea level, the channels adjacent thereto will always contain water under any
conditions, and that the waters of rivers tributary to the Delta other than the San Joaquin are
mixed in the tidal zone and thus present in the channels adjacent to South Delta lands under all
conditions. This information is already in the possession of the SWRCB and DWR as part of its
modeling assumptions and factual data regarding Delta hydrology.


1 C. The evidence and testimony submitted by SDWA regarding low water
2 levels during the time of JPOD operations and other times.

3 D. The testimony and cross-examination of the United States Bureau of
4 Reclamations' witnesses regarding water level effects of JPOD operations.

5 4. This evidence was not submitted as part of the comment process leading to the
6 approval of the Response Plan under D-1641 because it was assumed that such information
7 having already been presented to the Board and referenced in comments would be acknowledged
8 by the SWRCB.

9 I declare under penalty of perjury the above is true and correct to the best of my
10 knowledge.

11 Dated: April 11, 2002

12
13 By: 
14 JOHN HERRICK, Attorney for SOUTH DELTA
15 WATER AGENCY
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26 SDWA\Pleadings\D-1641 Declaration JH
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8 **STATE OF CALIFORNIA**

9 **STATE WATER RESOURCES CONTROL BOARD**

10 In the matter of Approval of Water }
Level Response Plan Under D-1641 }

**POINTS AND AUTHORITIES IN SUPPORT
OF PETITION FOR RECONSIDERATION**

11
12 **BACKGROUND AND INTRODUCTION**

13 In 1998, the State Water Resources Control Board ("SWRCB") undertook the
14 development of alternatives to implement its 1995 Water Quality Control Plan through the Bay-
15 Delta hearings. That process included approximately eighty (80) days of hearings. SDWA
16 attended and participated each day of the hearings but one and presented both written and oral
17 testimony and evidence. The result of the hearings was (revised) D-1641 adopted on March 15,
18 2000.

19 D-1641 was thereafter challenged in eleven different lawsuits, two of which include
20 SDWA as Petitioners/Plaintiffs. Those lawsuits that continue, have been consolidated, and are
21 currently pending before the Sacramento Superior Court. Given the ongoing litigation, there are
22 areas of discussion that are potentially inappropriate, and SWRCB's counsel may advise the
23 Board not to discuss or allow SDWA to discuss certain issues. In light of this, SDWA will
24 attempt to avoid such areas herein.

25 D-1641 allowed three phases of joint point of diversion ("JPOD"). [JPOD is the Board's
26 term for the CVP and SWP being able to use each other's point of diversion in the Delta for
27 export of water.] Each of these phases was conditioned upon certain criteria. On page 150 and
28 155, the Order states:

Permittee may divert or redivert water at [the other project's facilities] only if a response plan to insure that water levels in the southern Delta will not be lowered to the injury of water users in the southern Delta has been approved by the Executive Director of the SWRCB. Permittee shall prepare the response plan with input from the designated representative of the South Delta Water Agency.

The initial Response Plan was approved on October 6, 2000, over the objection of SDWA. That plan was to terminate one year thereafter. Because the negotiations for another plan had not yet begun, USBR and DWR requested the Plan be extended pending their consultation/negotiation with the SDWA. By way of letter dated November 28, 2002, SDWA requested it be able to present its position on what the Response Plan should include to both the Board and the Executive Director. The Executive Director responded that in order to add the matter to the Agenda of a regularly scheduled SWRCB meeting, both the Plan and SDWA's comments needed to be submitted by January 9, 2002. However, negotiations on the Plan continued past that date with the DWR and USBR eventually submitting the Plan on February 5, 2002.

On February 25, 2002, SDWA restated its request to make a presentation to the Board and the Executive Director wherein it would present additional comments to the proposed Plan. On March 12, 2002, the Executive Director conditionally approved the Response Plan ("Approval").

I. PETITIONERS REQUEST RECONSIDERATION UNDER § 768 OF TITLE 23 OF THE CALIFORNIA ADMINISTRATIVE CODE.

Section 768 of Title 23 of the California Administrative Code provides for reconsideration of SWRCB orders or decisions under the following causes:

- (a) Irregularity in the proceedings, or any ruling, or abuse of discretion, by which the person was prevented from having a fair hearing;
- (b) The decision or order is not supported by substantial evidence;
- (c) There is relevant evidence which, in the exercise of reasonable diligence, could not have been produced; and
- (d) Error in law.

The present situation does not completely fit the provisions of § 768 in that the evidence,

argument, and "hearing" which led to the Executive Director's approval of the plan was actually received and conducted as part of D-1641, not through a separate process. The procedure for approval of this and previous Response Plans has been a more informal process. The DWR and USBR "negotiated" with SDWA and various correspondence was generated between the parties and the SWRCB. SDWA's request for a specific hearing did not come to pass, and indeed the provisions of D-1641 requiring a Response Plan do not provide for a definite hearing, only that there be "input" from the SDWA and approval or denial by the Executive Director.

Notwithstanding this, SDWA submits that the SWRCB decision and order (the approval of the Response Plan by the Executive Director) was inappropriate under each of the four causes set forth in § 768, as follows:

A. The Approval is Inconsistent with D-1641.

D-1641 presents a long analysis of the rights of both riparian and appropriative diverters in the Delta on pages 28 - 35. In that analysis the Board concludes, as part of its Water Code § 1707 inquiry into whether or not there is "harm to legal users," that at some times, the Delta diverters can be harmed because they have rights to available water, and at other times they cannot be harmed because they do not have available rights. Subsequent to this analysis, the Board states on page 35:

Notwithstanding the unavailability of water to satisfy existing water rights in the southern Delta during certain periods, the SWRCB has determined that protection of agriculture in the southern Delta is in the public interest. Water quality objectives have been set for this purpose, and the USBR is responsible for meeting the Vernalis salinity objective. The months in which the southern Delta water users needs exceed their rights to water under riparian claims are the same months in which water quality violations tend to occur. Consequently, the southern Delta agricultural uses should not be deprived of water of useable quality as the result of this decision.

As we can see in spite of its analysis, the Board concludes that Delta diverters should be protected and not deprived of useable water. This protection is not limited to any showing of water rights or availability by the Delta diverters.

In addition, the Order states at page 153 (as a condition to stage 3 JPOD):

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1 Permittee shall protect water levels in the southern Delta
2 through measures to maintain water levels at elevations adequate
3 for diversion of water for agricultural uses. This requirement can
4 be satisfied through construction and operation of three permanent
5 tidal barriers in the southern Delta or through other measures that
6 protect water quality in the southern and central Delta and protect
7 water levels at elevations adequate to maintain agricultural
8 diversion.

9 Again we see that the Board requires protection of Delta diversions (here also for water
10 level purposes) without requiring any showing of water rights or availability. In fact one could
11 not build tidal barriers in the south Delta to protect some diverters and not others.

12 Contrary to these findings and provisions of D-1641, the Approval states that agricultural
13 diversions shall be protected through modifications to the diversions "if the diverters demonstrate
14 to the satisfaction of the Chief of the Department of Water Rights that they have a valid right to
15 the water during the period when water levels due to JPOD operations may be too low."

16 Not only is this additional condition contrary to the other express conditions of D-1641, it
17 unfairly burdens the innocent third party diverters. First, as the Board already knows, if no water
18 is available to a junior appropriator, he is notified under Term 91 to cease diversions. Requiring
19 him to monitor Delta inflow, outflow, storage releases, and exports is untenable. If the diverter
20 has a superior appropriative right (on file with the Board), he again should not be required to
21 monitor water facility operations up and down the Valley in order to determine whether he is
22 entitled to a certain height of water. Finally, with regard to riparians, the Board is already aware
23 that it would cost approximately \$7,000 to \$9,000 for a diverter to have a chain of title search to
24 "prove" his riparian status.

25 B. The Approval is Based Upon a Factual Mistake Regarding Delta Water Rights.

26 The Executive Director's Approval presupposes that some diversions within the Delta are
27 not entitled to water during some JPOD operations. SDWA's arguments regarding the statutory
28 protections to Delta diverters (Delta Protection Act and Area of Origin Statutes), and who is a
legal user are being decided in the ongoing litigation challenging D-1641. Should SDWA
prevail, the Board should revisit the Response Plan and amend it accordingly.

However, the diversions downstream of the temporary tidal barrier sites are all below sea

1 level. That is to say, their land is lower than the height of the mean sea water level in the Delta.
2 This is why they are able to use syphons to irrigate their property. Due to the tidal action of the
3 Delta, all inflow from the Sacramento, Mokelumne, San Joaquin, and Calaveras Rivers mixes
4 such that there is always water in the channels regardless of the amount of flow in the San
5 Joaquin River. They are by definition riparian to the waterways flowing into the Delta. Hence,
6 there is no time at which their lands are not abutting channels which contain water. [The issue of
7 keeping that water at a certain quality has been assigned to the projects through statute and
8 SWRCB decisions for over forty (40) years.] Therefore, any such riparian diverter is always
9 entitled to protection.

10 There was no indication proceeding D-1641 that the SWRCB would somehow exclude
11 Delta diverters' ability to divert water from the adjacent channels under a limited definition of
12 their riparian status and no indication that the Executive Director would add conditions for
13 protecting those diverters. Hence, as set forth in the enclosed Declaration of John Herrick,
14 relevant evidence has been excluded in the Approval process.

15 For the above reasons, the Approval is an abuse of discretion, unsupported by the
16 evidence, and contrary to law. The protections provided by the Response Plan should be applied
17 to all riparian diverters and all superior appropriative right diverters.

18 C. The Approval Excuses Prior Violations.

19 The previously approved Response Plan for last year stated, "To obtain approval beyond
20 one year, the DWR and the USBR must complete their program of diversion modifications and
21 establish an ongoing program of dredging in the southern Delta."

22 The project's diversion modification program at that time dealt with only diverters on
23 Grant Line Canal downstream of the temporary barrier site. As SDWA has previously informed,
24 DWR, USBR, and SWRCB many other locations experience water level problems not just that
25 portion of Grant Line Canal.

26 DWR did undertake a one-time dredging program for the main purpose of dredging
27 around two marinas in the southern Delta. Although the project's permits would have allowed
28 some "spot dredging" near Grant Line Canal intakes, such work was never done. DWR and

1 USBR *did not even apply for permits* for "ongoing maintenance dredging." The SWRCB did not
2 enforce that condition (even though, as part of the Response Plan, it was legally required CEQA
3 mitigation—see below), and has now allowed its removal from the new plan. The current
4 requirement is to "implement a site-specific" program "subject to securing necessary regulatory
5 permits." Not only is it inappropriate to excuse past violations and make current obligations only
6 conditional, the principal of dredging to address South Delta water levels is factually incorrect.
7 Contrary to past and recent statements by the SWRCB, the underlying causes of these lowered
8 water levels are known and clear. The 1980 Report on the Effects of the CVP upon the Southern
9 Delta Water Supply (submitted as evidence in the Bay-Delta Water Right Hearings and
10 uncontroverted) undeniably shows how the projects' lower water levels to the detriment of local
11 diverters. Siltation raises the bottom of the channel, it has no effect on the height of the water.
12 Hence, although dredging may help some areas where siltation interferes with the flow from the
13 thalweg to a diversion, it has no real bearing on whether or not the height of the water is too low
14 for a syphon or a pump. Information on land elevation and diversion locations and depth are in
15 both the SWRCB and DWR's possession.

16 The other alleged "causes" of low water levels (weather, local diversions, etc.,) are
17 similarly irrelevant. Historically, the diverters never had any water level problems until the
18 projects began operating. These other conditions simply decrease the ability of South Delta
19 diverters to tolerate the impacts of the projects.

20 For the above reasons, the approval is an abuse of discretion, unsupported by the
21 evidence, and contrary to law. The Board should require the ongoing maintenance dredging
22 program previously mandated and suspend any JPOD until it is implemented.

23 D. The Approval is Inadequate CEQA Mitigation.

24 At the end of the Bay-Delta Water Rights Hearings, the Board inserted a couple of pages
25 of "analysis" of the effects of JPOD on water levels. This analysis was not originally included in
26 the draft EIR supporting the eventual D-1641.

27 The information was based upon testimony and evidence submitted by the USBR which
28 indicated that when one compares JPOD without barriers to JPOD with permanent barriers, the

diverters are better off with barriers. This of course tells us nothing with regards to the effects of JPOD operations during times of no barriers or during times of temporary barriers. The adequacy of that analysis is to be determined in the ongoing litigation.

However, D-1641 at pages 104-105 clearly requires the projects to not adversely affect water levels by developing a Response Plan to "insure water levels in southern Delta channels are not lowered to elevations inadequate for diversion of water for agricultural uses."

This is clearly mitigation of the potential harm as determined by the CEQA lead agency, the SWRCB

As of today, neither the lead agency nor the project proponents have done the mandated maintenance dredging, have identified or specified when and where the adverse effects on water levels may occur, and have not committed to cure those effects. If dredging, temporary pumps, and diversion modifications are part of the CEQA mitigation (they were part of the previous plan), the project (JPOD) cannot proceed until the mitigation has been completed. CEQA is not guess work; it is not discretionary; it is not conditional. The SWRCB and project proponents deferred the issue of addressing water levels to the Response Plan (that deferral is also part of the ongoing litigation). Once deferred however, it cannot be ignored, left undetermined, and left unimplemented. It is the lead agency's obligation to identify the potential harm, examine that potential harm, and require mitigation thereof. Allowing the DWR and USBR to have JPOD operations when dredging, temporary pumps, and diversion modifications have not been completed is simply turning a blind eye rather than complying with CEQA.

For the above reasons, the approval is an abuse of discretion, unsupported by the evidence, and contrary to law. The Response Plan should preclude JPOD operations until the specific areas and times of impacts due to JPOD are determined, and adequate mitigation is in place, not made conditional.

E. The Approval Authorizes Permit Violations and Harms Third Parties and Public Trust Needs.

From the very beginning of JPOD requests, SDWA raised the issue of whether or not additional exports should be allowed during times when "regular" operations are already causing

1 harm. The point being, why should the regulatory agency allow additional benefits under the
2 permits (JPOD) at times the Permittees are violating the permits (adversely impacting superior
3 water right holders).

4 DWR and USBR agreed with SDWA and stated in their September 15, 2000, letter to Ed
5 Anton, "Mr. Herrick raises the issue of whether or not joint point operations can occur if normal
6 operations are causing harm. If water levels are not adequate, as defined in the Response Plan,
7 the Projects will not utilize the joint point of diversion."

8 Since that time, the projects violated that promise (most JPOD operations in 2000 and
9 2001 occurred during times of inadequate water levels along Old River or Middle River). They
10 now have changed their position, and the Executive Director of the SWRCB has agreed to
11 release them from their promise.

12 The excuse is couched in terms of "no additional harm" due to JPOD; but that misses the
13 point. First, the projects are obligated to operate in a manner which will not harm superior water
14 right holders, the environment, boating interests, or other public trust purposes. When they do
15 cause such harm (undeniable to everyone except the SWRCB), they should not be granted greater
16 rights, rather their current rights should be curtailed.

17 Secondly, neither the CEQA lead agency nor the project proponents have determined
18 where the harm will occur, the extent of the harm, what levels are necessary in what areas, etc.
19 Notwithstanding this, they believe they should be allowed additional exports if modeling
20 indicates no additional incremental harm.

21 The magnitude of this position is truly remarkable. When Middle River runs dry, fish
22 cannot exist, diversions cannot occur, boating is precluded; but more exports are allowed. When
23 Old River or Salmon Slough is mostly sandbar and diversions cease, more exports are allowed.

24 The SWRCB has time and staff to actively seek out Term 91 diverters in the Delta when
25 there are no complaints filed by the DWR or the USBR, but the SWRCB has no time or money
26 to regulate export operations and permit violations of DWR and USBR. In fact, the violations
27 are recognized and approved in the Response Plan while additional exports are authorized. Such
28 approval of permit violations only taints this and any future proceeding in which the SWRCB is

1 supposed to act as judge over permit violations.

2 For the above reasons, the Approval is an abuse of discretion, unsupportable by the
3 evidence, and contrary to law. The Response Plan should not allow JPOD at any time local
4 water levels are inadequate for local diversions or public trust needs.

5 F The Approval Mischaracterizes the Definition of Harm.

6 Page 1 of the Response Plan approved by the SWRCB states, "[W]ater levels of concern
7 shall be levels at which ongoing or scheduled diversions in the southern Delta are no longer
8 possible."

9 Delta diverters have either (or both) appropriative rights or riparian rights. The
10 appropriative rights allow specific rates of diversion, and the riparian rights allow diversions
11 sufficient to meet beneficial uses. Harm to these rights cannot be found only when the diversion
12 becomes impossible. Any diminution of the amount or ability to divert constitutes harm.

13 For the above reasons, the approval is an abuse of discretion, unsupported by the
14 evidence, and an error in law.

15 G The Approval Inadequately Addresses All JPOD Operations.

16 Pursuant to the Delta Accord, the Framework Agreement, the 1995 Water Quality
17 Control Plan, and D-1641, the CVP and SWP have significantly altered their operations to
18 decrease exports at certain times of the year to protect fisheries, and then increase exports at
19 other times to make up for these "lost exports" under the principle of no net loss.

20 The increased exports are typically occurring during times of greatest concerns for South
21 Delta water levels and quality. The Response Plan should recognize that the "normal" operations
22 of the projects have been altered so that there is additional harm not just from JPOD but from
23 other operational changes which then rely on and are only possible with JPOD. Clifton Court
24 Forebay operations are complicated and do allow DWR discretion as to when water is taken in.
25 Changes within this allowable range can decapitate the low-high tide, which adversely affects the
26 amount of water available to Delta diverters. [Decapitating the high tides decreases the amount of
27 water and length of time the adequate water levels will exist. Such information is in the control
28 of DWR and should be submitted to the Board for purposes of this Request for Reconsideration

1 For the above reasons, the approval is an abuse of discretion, unsupported by the
2 evidence, and contrary to law. The Response Plan should therefore specify what Clifton Court
3 Forebay operations are allowable and when, and include additional no net loss pumping as an
4 incremental effect of JPOD.

5 H. The Approval lacks Specificity Regarding Adequate Mitigation.

6 The Response Plan allows JPOD under Condition II when "adequate measures are
7 available to offset incremental effects of the action to water levels of concern." Such a condition
8 provides little protection unless and until there is a definition of what is adequate.

9 DWR proposed a test program for temporary pumps but was unable to conduct that
10 program due to lack of permits. Previous offers of temporary pumps were met with skepticism
11 by the diverters; one pump contractor stated the proposed system would not work. The question
12 then arises "What is the SWRCB's position if DWR states that untried pumps are available and
13 JPOD operation's are requested?"

14 The specifics of protections should be worked out first and not last. It is important to
15 note that last year virtually every JPOD occurred without prior modeling and at times of
16 inadequate water levels.

17 For the above reasons, the Approval is an abuse of discretion, unsupported by the
18 evidence, and contrary to law. The Response Plan should require methods of mitigation be in
19 place and effective prior to allowing JPOD operations.

20 I. The Approval Anticipates Costs to Innocent Third Parties.

21 On page 4 of the Response Plan it states, "It is the goal of the parties that such measures
22 would be a fair cost to the diverters . . ." If JPOD requires mitigation to avoid harm to local
23 diverters, the cost thereof can only be attributed to the project proponents. There is no "fair cost"
24 portion attributable to the diverters.


25 For the above reasons, the approval is an abuse of discretion, unsupported by the facts,
26 and contrary to law. Mitigation for JPOD should be at no cost to local diverters.

27 III. CONCLUSION

28 The Response Plan contains numerous and serious flaws and therefore the Executive

1 Director's approval thereof should be vacated. The Board should require that DWR and USBR
2 specifically determine when, where, and how much all operations associated with JPOD affect
3 South Delta water levels, the various levels at which harm occurs, and put in place adequate
4 mitigation measures which will be effective when necessary. No JPOD operations should be
5 allowed until such actions are taken.

6 Dated: April 11, 2002

7 By: 
8 JOHN HERRICK, Attorney for SOUTH DELTA
9 WATER AGENCY
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21 SDWA/Pleadings/D-1641 Points and Authorities
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8 **STATE OF CALIFORNIA**

9 **STATE WATER RESOURCES CONTROL BOARD**

10 In the matter of Approval of Water) **PROOF OF SERVICE BY MAIL**
Level Response Plan Under D-1641 } **PROOF OF TRANSMISSION/SERVICE BY**
11 **FAX**

12 I am a citizen of the United States and a resident of the County of San Joaquin. My
13 business address is 4255 Pacific Avenue, Suite 2, Stockton, California 95207. I am over the age
14 of eighteen years and not a party to the within entitled action. I am readily familiar with the
15 practice of the Law Office of John Herrick for collection and processing of correspondence for
16 mailing with the United States Postal Service. In the ordinary course of business of the Law
17 Office of John Herrick, correspondence is deposited with the United States Postal Service the
18 same day as it is collected and processed.

19 On April 11, 2002, I served the within **POINTS AND AUTHORITIES IN SUPPORT**
20 **OF PETITION FOR RECONSIDERATION REQUEST FOR RECONSIDERATION,**
21 **DECLARATION IN SUPPORT OF REQUEST FOR RECONSIDERATION, and**
22 **REQUEST FOR RECONSIDERATION** on the above parties by e-mailing a copy to Nick
23 Wilcox (SWRCB), Curtis Creel (DWR), Paul Fujitani (USBR) and by placing a true copy thereof
24 enclosed in a sealed envelope with postage thereon fully prepaid, and placed for collection and
25 mailing on said date to be deposited with the United States Postal Service following ordinary
26 business practices at Stockton, California, (and hand delivering to Ms. Celeste Cantú,
27 Executive Director the State Water Resources Control Board by Attorney's Diversified Services)
28 addressed as follows:

-1-

Proof of Service

1 Mr. Chet Bowling
2 Chief of Water Operations Division
3 3310 El Camino Avenue, Suite 300
4 Sacramento, CA 95821

5 Mr. Carl Torgersen
6 Chief SWP Operations Control Office
7 3310 El Camino Avenue, Suite 300
8 Sacramento, CA 95821

9 I declare under penalty of perjury under the laws of the State of California that the foregoing
10 is true and correct.

11 EXECUTED on April 11, 2002, at Stockton, California.

12 
13 Dayle Daniels

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I declare as follows:

I am employed in San Joaquin County, California.

Name: Ms. Celeste Cantu **Fax No.** 916 341-5621
 Mr. Chet Bowling 916 979-2494
 Mr. Carl Torgersen 916 574-2785

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on April 11, 2002.

Dayle Daniels